

Informal Public Comment Period for Proposed Changes to Regulations and Policies for Intermediate Care Facilities

ODP Announcement 22-009

AUDIENCE:

Individuals and Families, Intermediate Care Facilities (ICF) (including Intermediate Care Facilities for Individuals with Intellectual Disability (ICF/ID) and Intermediate Care Facilities for Persons with Other Related Conditions (ICF/ORC)), Supports Coordination Organizations (SCOs), County Intellectual Disability (ID) Programs, and All Other Interested Stakeholders

PURPOSE:

To announce an informal 30-day public comment period for proposed changes to regulations and policies for ICFs.

DISCUSSION:

In an effort to implement best practices and streamline requirements and operations between ICF and Home and Community Based Setting (HCBS) service providers, the Office of Developmental Programs (ODP) intends to align incident management regulations and policies for ICFs with the already-existing regulations and policies for HCBS services. Specifically, ODP plans to do the following:

- Rescind the class 3 bulletin (statement of policy) that is currently codified at Pa. Code Chapter §§ 6000.901 — 6000.985 (relating to incident management) and issue a new class 3 bulletin that aligns with [ODP Bulletin 00-21-02](#) (Incident Management for HCBS services) to the fullest extent possible.
- Update Pa. Code Chapter 6600 to include new sections on definitions, incident management, and individual rights to align with the 55 Pa. Code Chapter 6100 regulations, to the fullest extent possible.

ODP is pleased to announce the release of the draft class 3 bulletin and the proposed 55 Pa. Code Chapter 6600 regulations for review and *informal* public comment in order to obtain meaningful input from stakeholders early on in the process of changing regulations. After the informal comment period ends, ODP will review and evaluate these comments, incorporating them when practical into the bulletin and regulations.

The 30-day informal public comment period begins on February 2, 2022 and ends on March 4, 2022.

Class 3 Bulletin

The draft class 3 bulletin will temporarily specify the operating procedures and directions for the incident management process for Non-State Operated ICFs as well as SCOs and County ID Programs serving individuals residing in a Non-State Operated ICF. The draft class 3 bulletin aligns with ODP Bulletin 00-21-02 (Incident Management for HCBS services) and the Incident Management Manual released on September 10, 2021, to the fullest extent possible.

Due to differences in the review process, the final class 3 bulletin will be issued well before the Pa. Code Chapter 6600 regulations will be finalized. Unlike the regulations, the draft class 3 bulletin will not be issued for a formal public comment period and therefore stakeholders are encouraged to use this opportunity to provide feedback on the draft class 3 bulletin during this informal comment period.

Providers of Non-State Operated ICFs, County ID Programs, and SCOs serving individuals in Non-State Operated ICFs should continue to follow the guidance outlined in the Incident Management Manual released on September 10, 2021, until the class 3 bulletin is finalized.

The class 3 bulletin will remain in effect until the Pa. Code Chapter 6600 regulations are finalized.

Pa. Code Chapter 6600

The draft Annex for the updates to Pa. Code Chapter 6600 include new sections for definitions, incident management, and individual rights that will align the regulations with the 55 Pa. Code Chapter 6100 regulations, to the fullest extent possible. Please note that the Annex includes only proposed language to be added to the regulations

(sections 2a, 40-45, and 81) and does not change any of the regulations that are currently in place in Chapter 6600. The regulations will not take the place of or conflict with the federal regulations governing ICFs (42 CFR § 483.400-480).

Once ODP receives and incorporates changes as a result of this informal public comment period, there is a lengthy review process that the draft regulations must go through. Once approved by all reviewing entities, the proposed regulations will be published in the *Pennsylvania Bulletin* for a formal public comment period that will be at least 30 days. ODP will provide notice to all stakeholders when that formal public comment period begins.

Informal Public Comment

Comments received by 11:59pm on March 4, 2022, will be reviewed and considered for revisions.

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania Relay Service by dialing 7-1-1 or by using one of the toll-free numbers:

(800) 654-5984 (TDD users)

(800) 654-5988 (voice users)

(844)-308-9292 (Speech-to-Speech) or

(844)-308-9291 (Spanish)

Interested persons are invited to submit written comments regarding the draft class 3 bulletin and Pa. Code Chapter 6600 regulations. Written comments should be addressed to Laura Cipriani, Department of Human Services, Office of Developmental Programs, 625 Forster Street, Room 510, Harrisburg, PA 17120. Comments may also be submitted to ODP at RA-odpcomment@pa.gov using subject header "ICF Regulations."

CONTACT:

Questions about this communication should be directed to Laura Cipriani at lcipriani@pa.gov.